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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,473	03/31/2004	Elvira Reese	REESE	1217

7590 09/14/2004  
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EXAMINER

COCKS, JOSIAH C

ART UNIT PAPER NUMBER

3749

DATE MAILED: 09/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/816,473	REESE, ELVIRA	
	Examiner	Art Unit	
	Josiah Cocks	3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Drawings*

1. The formal drawing filed 7/27/2004 is accepted by the examiner.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 10-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10 recites the limitation "said butane" in line 2. There is insufficient antecedent basis for this limitation in the claim. As best can be determined applicant intended to make claim 10 dependent upon claim 2, which recites butane as the combustible fuel. For the purpose of an examination on the merits the examiner has interpreted claim 10 as being dependent upon claim 2. Correction is required.

### *Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-8 and 10-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,919,111 to Ohsawa ("*Ohsawa*") in view of U.S. Patent No. 1,235,465 to Hage ("*Hage*").

*Ohsawa* discloses an elevated candle lighter similar to that disclosed in applicant's claims 1-8 and 10-18. In particular, the lighter of *Ohsawa* includes a main body that includes a source of combustible fuel and means in the form of a trigger (8) for controlling the release the fuel, an extended conduit (3) for passage of the fuel, and a piezoelectric ignition means (2 and 20) for igniting the fuel. The lighter also includes seals (15) for preventing fuel leakage.

In regard to the recitations in the claims that the fuel is butane, OFFICIAL NOTICE is taken that butane is a well-known combustible fuel for lighters of the type shown in *Ohsawa*. A person of ordinary skill in the art would reasonably select butane as the combustible fuel.

*Ohsawa* does not disclose that the fuel conduit is extensible or includes telescoping sections. *Ohsawa* also does not disclose an attached snuffer as recited.

*Hage* teaches a lighter in the same field of endeavor as *Ohsawa*. The lighter of *Hage* includes a main body (10) and a first conduit section (11) that is telescoped into a second conduit section (12). *Hage* also discloses an attached, pivotally connected snuffer (20) (see *Hage*, page 1, lines 56-59). In regard to the limitation that the snuffer is attached to an end of the main body that is disposed distally away from the extensible means, the examiner considers that to have located the snuffer of *Hage* at the distal end of main body (10) would be a simply an obvious matter of design choice. This snuffer of *Hage* functions for the identical purpose of applicant's

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snuffer, as the location on the lighter is considered simply a matter of design choice it is not considered to be patentably distinct.

Therefore, in regard to claims 1-8 and 10-18, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the lighter of *Ohsawa*; to incorporate the telescoping conduits of *Hage* for the desirable purpose of permitting the user to light devices that are remotely located and allow the lighter to be withdrawn to a small and compact condition (see *Hage*, page 1, lines 15-21); and to incorporate the pivoting snuffer of *Hage* to permit extinguishing of candles, the pivoting connection being desirable in allowing the cup to assume a vertical orientation regardless of the tilt of the lighter body (see *Hage*, page 1, lines 61-70).

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Ohsawa* in view of *Hage* as applied to claim 1 above, and further in view of U.S. Patent No. 5,697,775 to Saito et al. ("*Saito*").

*Ohsawa* in view of *Hage* disclose all the limitations of claim 9 except possible for means for adjusting the gas flow rate.

*Saito* teaches a lighter in the same field of endeavor as *Ohsawa*. The lighter of *Saito* includes a knob (13) for adjusting the rate of gas flow when the trigger is depressed (see col. 10, lines 20-24).

Therefore, in regard to claim 9, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the lighter of *Ohsawa* to incorporate the

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gas adjusting knob of Saito for the desirable purpose of controlling the flame size during use of the lighter (see *Saito*, col. 10, lines 20-21).

### *Conclusion*

7. This action is made non-final. A THREE month shortened statutory period for reply has been set. Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) months from the mailing date of this communication.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patents to Sell, Nolf, Lowther and Gallo et al., and Japanese patent 9-53821 are included to further show the state of the art concerning lighter structure. Nunemaker is included to further show the state of the art concerning attached snuffers.


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Josiah Cocks whose telephone number is (703) 305-0450. The examiner can normally be reached on weekdays from 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus, can be reached at (703) 308-1935. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

jcc  
September 12, 2004

  
JOSIAH COCKS  
PRIMARY EXAMINER  
ART UNIT 3749

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